

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SCOT THOMPSON FARMS, LLC,

Plaintiff,

v.

HAP HOLDINGS TRUST and HCJ
HOLDINGS TRUST,

Defendants.

CASE NO. _____

COMPLAINT

COMES NOW the Plaintiff, Scot Thompson Farms, LLC (“Plaintiff”) and for its cause of action against the Defendants, HAP Holdings Trust (“HAP”) and HCJ Holdings Trust (“HCJ”) (“collectively the “Trusts”) hereby states and alleges as follows:

THE PARTIES

1. Plaintiff is a limited liability company organized and existing under the laws of the State of Nebraska.

2. On information and belief, HAP and HCJ are trusts created and existing under the laws of the State of Nebraska. Jan M. Mengedoht (“Mengedoht”) represents himself to be the trustee and/or “caretaker” of both Trusts.

3. This is an action brought pursuant to 26 U.S.C. § 7434 for damages for the willful and fraudulent filing of information returns by the Defendants.

BACKGROUND

4. Plaintiff is the owner of real property located in Washington County, Nebraska and legal described as follows:

Parcel 1 - The East Half of the West Half of the Southeast Quarter of the Southeast Quarter (E 1/2 of W 1/2 of SE 1/4 of SE 1/4) of Section Thirty-Five (35) in township Twenty (20) North, Range

Nine (9) East of the 6th P.M., in Washington County, Nebraska, containing 10 acres, more or less;

Parcel 2 - The West Half of the West Half of the Southeast Quarter of the Southeast Quarter (W 1/2 W 1/2 SE 1/4 SE 1/4), of Section Thirty-Five (35), Township Twenty (20), North, Range Nine (9), East of the 6th P.M., in Washington County, Nebraska;

Parcel 3 - The Northeast Quarter of the Southeast One-Fourth (1/4), Section 35, township Twenty (20), Range Nine (9), East of the Sixth P.M., containing Forty (40) acres, more or less according to Government survey, said property located in Washington County, Nebraska;

Parcel 4 - The North One-Half of the Northwest Quarter of Section 31, Township 20 North, Range 10 East of the 6th P.M., in Washington County, Nebraska;

Parcel 5 - The Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4), the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4), and the North Half of the Southeast Quarter of the Northwest Quarter (N 1/2 SE 1/4 NW 1/4) of Section One (1), in Township Nineteen (19) North, Range Nine (9), and the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section thirty-six (36), and the East Half of the Southeast Quarter of the Southeast Quarter (E 1/2 SE 1/4 SE 1/4) of Section Thirty-Five (35), in Township Twenty (20), North, Range Nine (9), all East of the 6th P.M., in Washington County, Nebraska;

Parcel 6 - The Northeast Quarter of Section 36, Township 20 North, Range 9 East of the Sixth P.M., in Washington County, Nebraska;

Parcel 7 - The East Half of the Southwest Quarter, and the West Half of the Southeast Quarter, all in Section 36, Township 20 North, Range 9, East of the Sixth P.M. in Washington County, Nebraska

(collectively, the "Property").

5. The Property was the subject of an IRS foreclosure action initiated against HCJ, Mengedoht and others on or about July 5, 2017 in an action brought in the United States District Court for the District of Nebraska to enforce a federal tax lien styled *United States of America v.*

Jan M. Mengedoht, Case No. 8:17-cv-00238-JFB-SMB (hereinafter the “IRS Foreclosure Action”).

6. Within the IRS Foreclosure Action, this Court found HCJ to be in default for failing to obtain legal counsel as ordered and entered judgment against it. On or about January 25, 2019, the Court entered judgment against Mengedoht as executor of the Charles A. Mengedoht Estate, and in favor of the United States for unpaid federal taxes totaling \$2,790,403.66.

7. On February 25, 2019, this Court ordered that the Property be sold at a public auction to the highest bidder. The February 25, 2019 Order of Sale directed that all persons occupying the Property vacate the Property within sixty (60) days and further provided that any personal property remaining on the Property after sixty (60) days after the date of the Order of Sale be deemed abandoned and forfeited.

8. A public auction for the sale of the Property was held on August 10, 2022 and Plaintiff was the highest bidder paying a sum of \$3,000,000.00 for the Property.

9. On or about September 8, 2022, the Court entered its Order confirming the sale and directing the IRS to issue a Deed for the Property to Plaintiff. On September 26, 2022, the Court entered its Amended Order Confirming Sale and Directing Distribution of Sale Proceeds.

10. On or about September 30, 2022, the IRS issued a Deed to Plaintiff which was properly recorded with the Register of Deeds of Washington County, Nebraska on October 19, 2022.

11. Notwithstanding the Orders of this Court entered in the IRS Foreclosure Action, Mengedoht refused to vacate the Property.

12. On or about October 25, 2022, Plaintiff initiated an unlawful detainer action in the District Court of Washington County, Nebraska at Case No. CI22-185 requesting a Writ of Restitution removing Mengedoht from the Property.

13. On or about December 22, 2022, following a trial by jury, the District Court of Washington County, Nebraska entered Judgment in favor of the Plaintiff and against Mengedoht for restitution of the Property.

14. In retaliation for Plaintiff's purchase of the Property at the foreclosure sale and initiation of the unlawful detainer action, Mengedoht, acting on behalf of the Trusts, filed the following fraudulent 1099-MISC Information Returns with the IRS, copies of which are attached hereto as Exhibits "A" thru "D":

| <i>Payer's Name</i> | <i>Recipient's Name</i> | <i>Amount</i> | <i>Exhibit</i> |
|----------------------------|--------------------------------|----------------------|-----------------------|
| HAP Holdings | Scot Thompson Farms, LLC | \$6,147,900.00 | A |
| HAP Holdings | Scot Thompson Farms, LLC | \$6,147,900.00 | B |
| HCJ Holdings | Scot Thompson Farms, LLC | \$441,931.00 | C |
| HCJ Holdings | Scot Thompson Farms, LLC | \$3,000,000.00 | D |

15. At no time did Plaintiff receive the payment, income or other compensation that was purportedly paid to the Plaintiff as reflected in the fraudulent 1099-MISC Information Returns attached as Exhibits "A" thru "D."

16. The 1099-MISC Information Returns were filed willfully and fraudulently by the Defendants with the intent to harass and cause Plaintiff harm.

17. Pursuant to 26 U.S.C. § 7434(d), contemporaneous with the filing of this action, Plaintiff has provided a copy of this Complaint to the IRS.

COUNT I
(Civil Damages for Fraudulent Filing of Information
Returns Pursuant to 26 U.S.C. § 7434)

18. Plaintiff incorporates by reference paragraphs 1 thru 17 as if fully set forth herein.

19. Each of the 1099-MISC Information Returns attached hereto as Exhibits “A” thru “D” are “Information Returns” as described in 26 U.S.C. § 6724(d)(1)(A).

20. Each of the four (4) 1099-MISC Information Returns attached as Exhibits “A” thru “D” were filed willfully and fraudulently by the Defendants with the IRS with the intent and purpose of harassing and harming the Plaintiff.

21. Plaintiff seeks damages for the filing of each of the fraudulent Information Returns as allowed in 26 U.S.C. § 7434(b).

22. Pursuant to 26 U.S.C. § 7434(c), Plaintiff also requests a finding that the Information Returns attached hereto as Exhibits “A” thru “D,” and each of them, are fraudulent and should never have been submitted to the IRS or, alternatively, that the correct amount of such Information Returns should have been zero.

PRAYER

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants, and each of them, for damages as calculated pursuant to 26 U.S.C. § 7434(b), for its attorney fees incurred in bringing this action, for its costs and for such other and further relief as the Court deems proper.

DATED this 23rd day of January, 2023.

SCOT THOMPSON FARMS, LLC, Plaintiff

By: /s/ James J. Frost

James J. Frost (NE 16560)

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